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**Contains Confidential Business Information**

**VIA FEDERAL EXPRESS**

Leslie Blake  
Remedial Project Manager  
US Environmental Protection Agency - Region 5  
Superfund Division (SR-6J)  
77 W. Jackson Boulevard  
Chicago, IL 60604-3590

**Re: Amendment to Response of Hach Company to the 104(e) USEPA Requests for Information Sent to Environmental Test Systems, Inc., and the Hach Company - Lane Street Groundwater Contamination Site**

Dear Ms. Blake:

This letter and attachments hereto are the amended response of Hach Company ("Hach") to the CERCLA Section 104(e) Request for Information ("RFI") sent to Environmental Test Systems, Inc. ("ETS") dated June 3, 2014 and received on June 6, 2014, and to the RFI sent to Hach Company ("Hach") on June 3, 2014 and received on June 6, 2014. The amendment is necessary to: (1) correct a typographical error in this paragraph (Hach acquired ETS in April 1998, not April 1988); (2) correct a mistake on the top of page 3 (Danaher acquired Hach in July 1999, not early 2000); and (3) to correct errors in paragraph (a) of Response Number 2 that incorrectly states manufacturing operations ceased in 2004; in actuality they ceased in 2002. This amendment contains only changes to the body or the letter response itself; the attachments are unaffected and are not reproduced here.

ETS was merged into Hach in 2001 and no longer exists as a legal entity, although ETS is still a brand used by Hach. For this reason, Hach Company is responding to both the RFI to Hach, and the RFI to ETS. Responses are to the best of Hach's knowledge and belief for the time periods before Hach acquired ETS on April 30, 1998.

Pursuant to an agreement with Jim Morris of USEPA on June 26, 2014, Hach was granted until August 21, 2014, to provide this response for both ETS and Hach. Hach has made diligent



efforts to respond to the RFI and has fully answered all requests herein. Each response is based on information from current Hach employees (several of whom were previously employed by ETS) reasonably expected to have knowledge responsive to the RFI.

Hach has several objections concerning the RFI. These objections are being raised to preserve Hach's rights. Answers, however, are provided notwithstanding and subject to the objections. First, Hach objects to the requirement to provide a certification along with the Response to the Request for Information. Section 104(e) of CERCLA does not provide for such a

certification. Further, Hach objects to the phrasing of certain of the questions in the Request for Information. Some of the terms and phrases used in the Request for Information are ambiguous, vague and not defined. Hach has interpreted the questions so that they are not overly broad, unduly burdensome, or requesting information that is either irrelevant to the stated purpose of the Request for Information, is vague or ambiguous, is subject to the attorney-client privilege, or is not reasonably calculated to lead to the discovery of admissible evidence.

Please note that this Response to Request for Information contains Confidential Business Information that should be protected from disclosure to third parties in accordance with CERCLA Section 104(e)(7) and 40 CFR 2. Confidential Business Information is clearly marked to indicate the Confidential Business Information claim.

It is understood the RFI seeks information on whether companies which have owned or operated properties in an industrial park in Elkhart, Indiana could be potentially responsible parties ("PRPs") for Releases of certain hazardous substances at the Lane Street Groundwater Contamination Site in Elkhart, Indiana ("Lane Street Site"). The submission of any information in response to the Request for Information should not be construed to constitute an admission of liability, or waiver of defenses Hach may have for liability at the Lane Street Site.

### **RESPONSE TO CERCLA RFI**

#### **REQUEST NO. 1:**

Identify the parcel or parcels related to the Site and delineated in Definition No. 10, above, that you owned or operated, and state the period of time during which you owned or operated the parcel or parcels. At the time you acquired or began operating at the Site, did you know or have reason to know that any hazardous substance was disposed of on, or at the Site? Describe all investigations of the Site you undertook prior to acquiring the Site and all of the facts on which you base the answer to the preceding question.

#### **RESPONSE:**

a. Through acquisition of ETS, Hach acquired the Property currently known as 3504 Henke<sup>1</sup> (hereinafter the "Property") in 1998. Prior to that time the Property ownership is believed

<sup>1</sup> The former address for the property was 23575 County Road 106.



by Hach to be as presented in Attachment A. The Property was sold by Hach to RJM Enterprises, LLC on September 7, 2004. ETS has continued to lease a portion of the Property at 3504 Henke for a laboratory and research and development ("R&D"), since 2004. Additionally, for a few months, ETS leased some warehouse space at the Property at 3506 Henke.

b. and c. It is unknown whether at the time ETS acquired the Property (in approximately 1991), ETS conducted any environmental due diligence. Hach has no knowledge of whether ETS was aware of any hazardous substances disposed on the Property, or was aware of hazardous substances present elsewhere in the overall "Site" which is the subject of the RFI. In July 1999, Danaher Corporation acquired Hach, Danaher had a Phase I Site Assessment and Phase II Site Assessment performed, both dated August 1999. The Phase II was performed because the Phase I noted that a former owner/operator of the property had sampled the contents of septic tanks when they were closed in 1992 and the results disclosed some chlorinated solvent materials in the septic tanks. In 1999, conservatively Danaher performed Phase II sampling of soils and groundwater in the area of the former septic tanks. The Phase II concluded localized VOCs detected in the soil and groundwater were either below USEPA or IDEM criteria, or within background levels. Copies of the Phase I and Phase II appear in Attachments B and C.

#### **REQUEST NO. 2:**

Describe the nature of your activities or business at the Site, with respect to purchasing, receiving, processing, storing, treating, disposing, or otherwise handling hazardous substances or materials at the Site.

#### **RESPONSE:**

a. Activities conducted by ETS and Hach at the 3504 Henke Street Property have included the manufacturing, packaging and shipping of paper test strips (commonly used for swimming pools), and the operation of laboratories for product R&D. Operations from 1991 to 2002 at 3504 Henke included in those described in Attachment D. The manufacturing business was moved to Iowa thereafter. The test strips formerly manufactured by ETS in the 3504 Property were chemically treated with, among other chemicals, inorganic solvents, and two dryer units were operated for drying the test strips.

In response to the RFI, Hach has undertaken an exhaustive examination of ETS' historical use of chemicals and reviewed purchasing records from 1991 to 2002. [REDACTED] Exemption 4, 5 U.S.C. §552(b)(4)

[REDACTED] (See Attachment E). A thorough review of ETS and Hach records confirms that none of the chemicals identified by USEPA as Chemicals of Concern ("COCs")<sup>2</sup> at

<sup>2</sup> In various documents, including on its NPL Fact Sheet for Lane Street Groundwater Contamination (April, 2013), its summary of the Lane Street Site (May 2013) and its Lane Street Groundwater Contamination Superfund Site Community Update power point demonstration (May 2013), USEPA indicated the COCs for the Site are: trichloroethylene (TCE), 1, 1, 1 - trichloroethane (1, 1, 1 - TCA), 1, 1 - dichloroethane (1, 1 - DCA), 1, 1 -



the Site were used by ETS or Hach in their manufacturing process, or in R&D or laboratory operations.

Chemicals used by ETS and Hach in their operations at the Property were always properly managed in compliance with environmental laws and there has never been any known or suspected Release of any hazardous substances at or from the ETS or Hach operations. Laboratory chemicals not consumed in the laboratory operations have consisted of very small volumes which are collected and sent off-site in "lab packs" through a service provider. Since 1992, Sanitary wastewaters and the small volumes of process water generated during operations have been discharged to the Elkhart POTW (See Response to No. 4, below). Hach is aware that sampling of septic tanks by a former owner before the tanks were closed and before the time ETS began operations at the property, indicated the presence of COCs in the former septic tanks, however, neither ETS nor Hach ever purchased, used or handled the chemicals found in the septic tanks during that sampling.

Because ETS, which did not acquire the Site until 1991 just before the septic tanks were removed, never used the COCs reported to be present in the septic system in the months before the septic system was closed, those chemicals were present from operations from former owners or operators. As USEPA is aware, the former owners of the 3504 Henke Property, the Dygerts, may have been associated with chlorinated solvent contamination elsewhere in the immediate area of the Site (and the Dygerts owned the 3504 Property from at least 1973 to 1983).

### **REQUEST NO. 3:**

Describe any manufacturing processes used on the Site, give a list of the chemicals utilized in the manufacturing process either as a component employed in the formulation of an object, made for sale or use offsite or onsite, or as a reagent in the manufacturing process, or as an item utilized in maintenance activities.

### **RESPONSE:**

Attachment D contains a list of historic manufacturing and operating processes at the 3504 Henke Street Property and Attachment E identifies the chemicals used in those processes.

### **REQUEST NO. 4:**

Provide a list of any chemical substances produced in the manufacturing processes employed onsite, any chemical substances which become byproducts of the manufacturing process, the chemical composition of any sludges or liquids or other production wastes resulting from the manufacturing process. Summarize in a short narrative the equipment used to treat such waste materials, transport such waste materials or dispose of such waste materials.

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dichloroethylene (1, 1 - DCE), cis - 1, 2 - dichloroethylene (cis - 1, 2-DCE), trans - 1, 2 - dichloroethylene (trans - 1, 2 - DCE) and tetrachloroethylene (PCE).





**RESPONSE:**

There were no chemical substances ever produced in any manufacturing process and there were no by-products generated, nor sludges generated in the manufacturing process. Small quantities of process waters from laboratory operations were and are currently discharged to the Elkhart POTW and small amounts of laboratory wastes have been generated and disposed offsite. Solid wastes in small-quantity-generator volumes have also been generated and properly handled in accordance with RCRA requirements.

**REQUEST NO. 5:**

If the manufacturing processes used on the Site involve the utilization of rinse water, give a description of the equipment and transport mechanisms used to segregate hazardous substances from the water before it is discharged into navigable waters through an outfall permitted by a National Pollution Discharge Elimination System (NPDES) permit. Provide copies of all such permits granted in conjunction with Site operations. Describe the composition of any sludge material recovered from the cleanup processes of such rinse waters; give the means used to transport these sludges to disposal points and list any or all such deposition locations.

**RESPONSE:**

The process of manufacturing test strips did not involve use of rinse water, and there has been no NPDES-permitted discharge from the Property. Wastewaters, if any, were discharged to the Elkhart POTW. There were and are no sludges generated.

**REQUEST NO. 6:**

Did you ever use, purchase, generate, store, treat, dispose, or otherwise handle at the Site any hazardous substances? If the answer to the preceding question is anything but an unqualified "no," identify;

- a. In general terms, the nature and quantity of the non-hazardous substances so transported, used, purchased, generated, stored, treated, disposed, or otherwise handled.
- b. The chemical composition, characteristics, physical state (e.g., solid, liquid) of each hazardous substance so transported, used, purchased, generated, stored, treated, disposed, or otherwise handled.
- c. The persons who supplied you with each such hazardous substance.
- d. How each such hazardous substance was used, purchased, generated, stored, treated, transported, disposed or otherwise handled by you,
- e. When each such hazardous substance was used, purchased, generated, stored, treated, transported, disposed or otherwise handled by you.
- f. Where each such hazardous substance was used, purchased, generated, stored, treated, transported, disposed or otherwise handled by you,



- g. The quantity of each such hazardous substance used, purchased, generated, stored, treated, transported, disposed or otherwise handled by you,

**RESPONSE:**

a. and b. The chemicals used in manufacturing of test strips, R&D and development and laboratory operations are shown in Attachment E. Because neither Hach nor ETS has used COCs identified for the Site, ETS objects to Requests 6(c) - (g) as not relevant, and unduly burdensome.

**REQUEST NO. 7:**

Identify all federal, state and local authorities that regulated the Site Operator and/or that interacted with the Site Operator. Your response is to address all interactions and in particular all contacts from agencies/departments that dealt with health and safety issues and environmental concerns.

**RESPONSE:**

Hach has no knowledge of operations at or on the overall Site. With respect to the 3504 Property, Hach objects to this Request as irrelevant and unduly burdensome. Notwithstanding such objection, ETS and Hach operations on the Property have been subject to various state and local regulations and authorities. The authorities with whom ETS has interacted with respect to health, safety and environmental issues include the Department of Treasury (User #SDA-IN-1639 for the use of denatured alcohols), OSHA, the Elkhart POTW, and the Indiana Department of Environmental Management ("IDEM") (Air Permit No. 039-00187).

**REQUEST NO. 8:**

Describe all occurrences associated with violations, citations, deficiencies, and/or accidents concerning the Site during the time period in which you owned or operated at the Site. Provide copies of all documents associated with such an occurrence.

**RESPONSE:**

On November 6, 2003 IDEM issued a Notice of Violation for failure to submit a timely annual emission statement for 2002. (See Attachment F).

**REQUEST NO. 9:**

Provide a list of all local, state, and federal environmental permits ever granted for your activities or business at the Site (e.g., RCRA permits, NPDES permits, etc.).





**RESPONSE:**

From 2000 to 2002 EST had a Department of Treasury Industrial Alcohol User Permit #SDA-IN-1639. ETS had an IDEM Air Permit #039-00187.

**REQUEST NO. 10:**

Did you ever file a Hazardous Waste Activity Notification under the Resource Conservation and Recovery Act (RCRA)? If so, provide a copy of such notification.

**RESPONSE:**

It is unknown whether ETS or a previous owner filed a Hazardous Waste Activity Notification.

**REQUEST NO. 11:**

Did the Site ever have "interim status" under the Resource Conservation or Recovery Act (RCRA)? If so, and the Site does not currently have interim status, describe the circumstances under which the Site lost interim status.

**RESPONSE:**

Hach has no knowledge of activities at the overall "Site." To the best knowledge of Hach, the Property at 3504 Henke never had interim status.

**REQUEST NO. 12:**

Provide all reports, information or data related to soil, water (ground and surface), or air quality and geology/hydrogeology at and about the Site. Provide copies of all documents containing such data and information, including both past and current aerial photographs as well as documents containing analysis or interpretation of such data.

**RESPONSE:**

With the exception of the Phase II testing performed by BBL in August 1999 (Attachment C), Hach does not possess any information or documents responsive to this Request with respect to the overall "Site" or with respect to the 3504 Henke Property, except those made publicly available by USEPA on its website or provided to Hach by IDEM or USEPA in response to Freedom of Information Act Responses.

**REQUEST NO. 13:**

Describe the acts or omissions of any persons—other than your employees, agents, or those persons with whom you had a contractual relationship—that might have caused the release of hazardous substances at the Site, and identify such persons.



**RESPONSE:**

Hach is aware that Geocel LLC, 53280 Marina Drive, located upgradient of the Site and the subject Property at 3504 Henke has been identified as the source of vinyl chloride, dichloroethane and other chlorinated solvents which have contaminated groundwater in the area of the Site.

Hach is also aware that Dygert Seating, and its subsequent purchaser, Flexsteel, located at 23542 Cooper Drive and 53381 Marina Drive, also immediately upgradient of the Property, was identified a source of chlorinated solvent contamination in soils and groundwater at the Site.

As previously discussed, according to the Elkhart County Assessor, the Property at 3504 Henke was formerly owned by Century Motor Coach, and before that time (1973-1983) was owned by the Dygert family, and as USEPA is aware, the Dygert Company and its successor, Flexsteel, has been identified as the source of chlorinated solvent contamination at the Site, and the historical operations of these, and other previous owners, could have been sources of contamination found at the Site. These other persons' operations may also be the source of the chlorinated solvents found to present in the septic tanks prior to ETS operations at the site.

**REQUEST NO. 14:**

Identify all leaks, spills, or releases into the environment of any hazardous substances, pollutants, or contaminants that have occurred at or from the Site. In addition, identify:

- a. When such releases occurred;
- b. How the releases occurred (e.g. when the substances were being stored, delivered by a vendor, transported or transferred (to or from any tanks, drums, barrels, or recovery units), and treated).
- c. The amount of each hazardous substances, pollutants, or contaminants so released;
- d. Where such releases occurred;
- e. Any and all activities undertaken in response to each such release or threatened release, including the notification of any agencies or governmental units about the release.
- f. Any and all investigations of the circumstances, nature, extent or location of each release or threatened release including, the results of any soil, water (ground and surface), or air testing undertaken; and
- g. All persons with information relating to these releases.

**RESPONSE:**

Except as described in Response #13, Hach has no knowledge responsive to this Request.





**REQUEST NO. 15:**

Was there ever a spill, leak, release, or discharge of hazardous substances into any subsurface disposal system or floor drain inside or under a building located at the Site? If the answer to the preceding question is anything but an unqualified "no", identify:

- a. Where the disposal system or floor drains were located;
- b. When the disposal system or floor drains were installed;
- c. Whether the disposal system or floor drains were connected to pipes;
- d. Where such pipes were located and emptied;
- e. When such pipes were installed;
- f. How and when such pipes were replaced, or repaired; and
- g. Whether such pipes ever leaked or in any way released hazardous substances into the environment.

**RESPONSE:**

Except as described in Response #13, Hach has no knowledge of discharges at the overall Site. Except for discharges to the Elkhart POTW from the 3504 Henke Property after 1992, Hach has no information responsive to this Request. With respect to the Elkhart POTW wastewater system, Hach has no knowledge of the configuration of POTW system drains and piping beneath or adjacent to the Property.

**REQUEST NO. 16:**

Has any soil ever been excavated or removed from the Site? Unless the answer to the preceding question is anything besides an unequivocal "no", identify:

- a. Amount of soil excavated;
- b. Location of excavation;
- c. Manner and place of disposal and/or storage of excavated soil;
- d. Dates of soil excavation;
- e. Identity of persons who excavated or removed the soil;
- f. Reason for soil excavation;
- g. Whether the excavation or removed soil contained hazardous substances and why the soil contained such substances;
- h. All analyses or tests and results of analyses of the soil that was removed from the Site;
- i. All persons, including contractors, with information about (a) through (h) of this request.

**RESPONSE:**

Hach does not have knowledge relating to soil removals at the overall "Site" except for general knowledge of investigations and cleanups by IDEM or USEPA and associated with the



Dygart and Geocel cleanups. With respect to historic operations by ETS or Hach at 3504 Henke Street, Hach is unaware that any soils have ever been excavated or removed from that Property.

**REQUEST NO. 17:**

Provide information and documentation concerning all inspections, evaluations, safety audits, correspondence and any other documents associated with the conditions, practices, and/or procedures at the Site concerning insurance issues.

**RESPONSE:**

Hach has no knowledge of investigations at the "Site" relating to "insurance issues." With respect to the Property at 3504 Henke Street, Hach objects to this Request as irrelevant, unduly burdensome, and not reasonably related to the purpose of the RFI, which, according to USEPA, is to identify hazardous substances released at the Lane Street Site.





Summary: After extensive investigation of records, Hach has determined neither ETS nor Hach ever used any of the COCs at the Lane Street Site in their manufacturing processes or in research and development or laboratory operations.

Hach wishes to cooperate fully with your investigation and has fully and completely satisfied its obligations to respond to the CERCLA Section 104(e) RFI. If, subsequent to this response, the Company identifies additional information responsive to the RFIs for ETS or Hach, it will supplement this response.

For the reasons set forth above, it is the position of Hach that neither ETS nor Hach has any liability at the Lane Street Site. If you have any questions regarding this amended response to the RFI, please contact me directly.

Sincerely,

SEYFARTH SHAW LLP



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